

RESOLUTION NO. 88-93

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING EXECUTION OF AN AGREEMENT WITH R. W. BECK AND ASSOCIATES FOR ELECTRICAL ENGINEERING CONSULTING SERVICES

RESOLVED, that the City Council of the City of Lodi does hereby authorize the execution of an agreement between the City of Lodi and R. W. Beck and Associates for electrical engineering consulting services.

FURTHER RESOLVED, that the City Manager and the City Clerk are authorized to execute the agreement on behalf of the City.

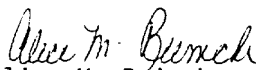
Dated: July 20, 1988

I hereby certify that Resolution No. 88-93 was passed and adopted by the City Council of the City of Lodi in a regular meeting held July 20, 1988 by the following vote:

Ayes: Council Members - Olson, Reid, Snider and
Pinkerton (Mayor)

Noes: Council Members - None

Absent: Council Members - Hinchman


Alice M. Reimche
City Clerk

PROFESSIONAL SERVICES AGREEMENT

Date April 25, 1988P. S. A. No. KK-1809-CA1-AZCLIENT City of Lodi
221 West Pine Street
ADDRESS Lodi, California 95241PROJECT General Consulting

Part I—Scope of Services

Consultant will provide services as requested by City and within specified budgets as authorized by the City. The City shall pay Consultant's actual salary costs determined in accordance with Consultant's "Current Range of Hourly Salary Costs" attached hereto as "Exhibit A" and by this reference made a part hereof, multiplied by 2.40 except when work requires expert witness testimony or analyses and reports to support a financing, in which cases the multiplier will then be 2.60. The labor costs set forth in this Agreement represent current costs and shall be subject to automatic adjustment in accordance with the Consulting Engineer's salary administration policy, and all payroll benefit costs and overhead costs included in the compensation set forth herein shall also be subject to an automatic adjustment effective each May 1 to reflect an actual change in such costs.

Part II—Payment

For services furnished, the Client shall pay R.W. Beck and Associates, Consulting Engineer, upon submission of monthly invoices, an amount equal to the actual hours of services furnished multiplied by the product of the Consulting Engineer's established hourly salary costs, which include allowance for personnel benefits, and a factor as specified in Part I, above.

In addition, the Client shall reimburse the Consulting Engineer each month: at cost for all out-of-pocket expenses directly chargeable to the work; at cost plus 10% for services of Special Consultants and Subcontractors; and at the Consulting Engineer's then current rates for computer and reproduction services.

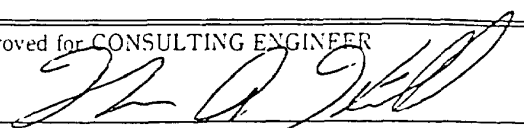
Part III—Standard Provisions (see following pages)

Part IV—Special Provisions (none)

Approved for CLIENT

By: _____
Title: _____

Approved for CONSULTING ENGINEER

By: 
Title: Partner and Manager, Sacramento OfficeBy: _____
Title: _____By: _____
Title: _____

Q

R. W. Beck and Associates

PART III — STANDARD PROVISIONS

III.A. Consulting Engineer's Organizations

R. W. Beck and Associates is a partnership and R. W. Beck and Associates, Inc. is a corporation owned and controlled by the partnership. Both entities are organized and operated under the laws of the State of Washington. It is expressly agreed that the partnership may be changed by addition or reduction in the number of the partners or redistribution of the partnership interests and this Agreement may be assigned to the partnership or to the corporation. The Consulting Engineer may assign the compensation from this Agreement to any other entity.

III.B. Professional Services

1. The Consulting Engineer shall be consultant and advisor to the Client as an independent contractor and shall not be an employee of the Client. The Consulting Engineer shall not be an agent or representative of the Client except that the Consulting Engineer may act as the Client's agent in providing construction management services to the degree specifically authorized in Part IV - Special Provisions of this Professional Services Agreement.

2. The Consulting Engineer represents that the services furnished under this Agreement will be in accordance with generally accepted professional practices. Any estimate of cost of equipment, construction, ownership or operation furnished by the Consulting Engineer shall be the Consulting Engineer's opinion based upon its professional judgment and experience. The Consulting Engineer makes no other representation or warranty, express or implied.

III.C. Change in Scope and Delays

1. If the provisions for payment in this Agreement provide for a fixed fee or a maximum payment for services, such fee or maximum is for the Scope of Services described in the Agreement. If the Scope of Services is modified so that more or less work or time is required, and such modification is accepted by the Client and the Consulting Engineer, the fee or maximum and the time shall be equitably adjusted.

2. In the event of delays in or failures of performance of the Consulting Engineer caused by circumstances beyond its control, the Consulting Engineer's fee or maximum and the time allowed shall be equitably adjusted, and such delays or failures shall not constitute a default or give rise to any claim against the Consulting Engineer.

III.D. Relating to Payment

1. The Consulting Engineer's "Salary Costs" allow for basic salary and personnel benefits, including: life, accident, disability and medical insurance; sick leave, holiday and vacation pay; social security, workers' compensation, unemployment compensation and pension retirement contributions; and similar employment-related costs. Basic salary per hour shall be twelve times current monthly salary for employees or current monthly drawings in lieu of salary for partners, exclusive of overtime, bonus or other profit participation payments, divided by 2,080.

2. The Consulting Engineer's "Out-of-Pocket Expenses" are those expenditures made by the Consulting Engineer, other than Salary Costs, costs of reproduction and computer services and costs of Special Consultants and Subcontractors, which are directly chargeable to the project and which would not otherwise have been incurred. Such expenditures include, but are not limited to, transportation, lodging, subsistence, communications, liability and other insurance premiums when required by the Client in addition to the types and amounts currently carried by the Consulting Engineer, taxes other than those levied on the profits or net income of the Consulting Engineer, equipment rentals and repair, and special mailing, forms, materials and supplies required during the progress of the work. Reimbursement for out-of-pocket expenses shall be an amount equal to the cost thereof.

3. "Computer services" as used herein shall mean the use of electronic computing and information processing equipment, word processing equipment, data communications equipment, computer software, and related facilities and services of personnel necessary to operate and maintain such equipment and facilities. "Reproduction services" as used herein shall mean the use of printing and copying equipment, photographic equipment, and similar facilities and services of personnel to operate and maintain such equipment and facilities. Charges for computer and reproduction services shall be at the Consulting Engineer's established rates therefor which are in effect at the time of such usage.

4. In event of the inability or failure of the Client to pay as agreed, interest commencing sixty days after the date of invoice shall be paid by the Client to the Consulting Engineer on the last day of each month on all unpaid amounts due the Consulting Engineer at the interest rate for borrowed funds then currently available to the Consulting Engineer at the Rainier National Bank of Seattle.

R. W. Beck and Associates

PART III — STANDARD PROVISIONS

III.E. Insurance

The Consulting Engineer shall maintain in effect, to the extent that such insurance is available at reasonable cost, employer's liability, professional liability, comprehensive general liability (bodily injury and property damage) and comprehensive automobile liability (bodily injury and property damage) insurance with respect to employees and vehicles of the Consulting Engineer assigned to the prosecution of work under this Agreement, with each policy having maximum limits of not less than \$5,000,000, and statutory workers' compensation protection. Upon written request, the Consulting Engineer will supply to the Client a description of each such insurance policy currently in effect, specifying the amount thereof. The Consulting Engineer will obtain and thereafter maintain in effect, if reasonably available, such additional insurance as may be requested by the Client, the cost of which shall be reimbursed by the Client.

III.F. Liability

In partial but specific consideration of the execution of this Agreement, the Client and Consulting Engineer agree as follows:

1. The Consulting Engineer shall indemnify and hold harmless the Client and its governing board, officers and employees from all claims, expenses and liability, following operation of applicable rights of contribution, arising out of negligent acts, errors or omissions of the Consulting Engineer and its employees, including claims made by employees of the Consulting Engineer; provided, however, such indemnification and hold harmless shall not exceed (a) the proceeds of any applicable insurance required to be maintained by the Consulting Engineer under the provisions of this Agreement or (b) \$250,000, whichever is greater.

2. The Client shall indemnify and hold harmless the Consulting Engineer, its partners, officers, employees and subcontractors from all claims, expenses and liability, following operation of applicable rights of contribution, arising out of negligent acts, errors or omissions of the Client and its employees, including claims made by employees of the Client and claims related to construction, use, occupancy, ownership, operation, maintenance or control of facilities related to services to be performed under this Agreement.

3. The Client shall limit any and all claims of the Client against the Consulting Engineer, its partners, officers, employees or subcontractors arising out of the performance of this Agreement, to an amount not to exceed (a) the proceeds of any

applicable insurance required to be maintained by the Consulting Engineer under the provisions of this Agreement or (b) \$250,000, whichever is greater.

4. For amounts in excess of any proceeds of the insurance required to be maintained by the Consulting Engineer under the provisions of this Agreement, the Client shall indemnify the Consulting Engineer, its partners, officers, employees and subcontractors against all expense or liability of any kind arising out of any claim for loss of life, bodily or personal injury, property damage or other loss from any cause related to the furnishing of the services covered by this Agreement; provided, however, this indemnity shall not apply to the sole negligence of the Consulting Engineer.

5. The Client and the Consulting Engineer shall not be liable to each other in any event for interest (except as otherwise provided); loss of anticipated revenues, earnings or profits; increased expense of operations; loss by reason of shutdown or non-operation due to late completion or otherwise; and consequential damages.

6. In any and all claims involving an employee of the Consulting Engineer or the Client, the indemnification obligation under this paragraph entitled "Liability" shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts.

III.G. Suspension or Termination of Services

The Client or the Consulting Engineer may suspend or terminate any or all services covered in this Agreement at any time upon written notice in which event the Client shall pay the Consulting Engineer upon submission of invoices for all services rendered and expenses incurred to the effective date of such suspension or termination.

III.H. Construction Contractor's Performance and Safety

The Consulting Engineer shall not be responsible: for safety on the Client's premises or project site, except for the safety of personnel of the Consulting Engineer, its Special Consultants and Subcontractors; for providing or assuring a safe place for the performance of the construction contractor's work; for safety precautions, programs or equipment; for construction means, methods, techniques, sequences or procedures; or for the construction contractor's failure to perform the work in accordance with the Contract Documents.

R. W. Beck and Associates

PART III — STANDARD PROVISIONS

III.I. Disposition of Documents

1. Upon completion of the services provided under this Agreement, the Consulting Engineer shall deliver to the Client one copy of all Reports, Specifications and Contract Documents and one transparency of each of the Drawings. The originals of all Reports, Specifications, Drawings and Contract Documents shall be retained by the Consulting Engineer and upon request by the Client, the Consulting Engineer will furnish copies to the Client at actual cost of duplication and mailing. If such Reports, Specifications, Drawings or Contract Documents or reproductions thereof, or any other items relating to the services of the Consulting Engineer are changed in any way or used by the Client for any other project or purposes, the Client shall indemnify, defend and hold harmless the Consulting Engineer from all loss, damage, liability or expense arising out of such change or use.

2. Except as specifically provided to the contrary in this Agreement, all computer programs, computer code and documents related thereto ("computer software") developed by or used by the Consulting Engineer in conjunction with the Consulting Engineer's work hereunder shall remain the sole and exclusive property of the Consulting Engineer, and the Client shall have no right or title to or interest in such computer software. In the event the Consulting Engineer releases any such computer software to the Client, the Client shall protect the confidentiality of such computer software and shall not release or divulge such computer software to any other person or organization or let any other persons or organization use such computer software. In the event Client uses any such computer software or allows such computer software to be used by others, the Client shall indemnify and hold harmless the Consulting Engineer from all loss, damage, liability or expense arising out of such use.

III.J. Equal Opportunity

The Consulting Engineer will not knowingly discriminate against any employee or applicant for employment because of age, race, color, religion, sex, national origin, marital or veteran status or physical handicap. The Consulting Engineer will take affirmative action to the end that applicants are employed, and that employees are treated during employment, without such discrimination.

III.K. Severability and Headings

1. If any part of this Agreement, including, but not limited to, any provision, paragraph, clause, phrase or words, is found to be in conflict

with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder shall be given full force and effect.

2. The descriptive headings used in this Agreement have been inserted for convenience of reference only and shall in no way modify or restrict any of the terms and provisions of this Agreement.

III.L. Notice

All notices relating to this Agreement shall be in written form delivered in person or by Express Mail, Registered or Certified United States Mail, postage prepaid, to the Consulting Engineer or to the Client to the attention of its chief executive officer at the last business address of the principal office of the addressee known to the sender.

- END OF PART III -

R. W. Beck and Associates

CURRENT RANGE OF HOURLY SALARY COSTS
Effective May 1, 1987

<u>Grade</u>	<u>Title</u>	<u>Current Range of Hourly Salary Costs(*)</u>
1	Clerk, Stenographer, Aide	\$ 6.93 - \$15.96
2	Assistant Secretary, Assistant Fieldman, Assistant Draftsman, Assistant Draftswoman; Senior Clerk, Senior Stenographer, Senior Aide	8.15 - 18.52
3	Assistant Programmer, Assistant Technician, Assistant Designer, Accounting Clerk; Secretary, Fieldman, Draftsman, Draftswoman	9.60 - 22.12
4	Assistant Engineer, Assistant Analyst, Assistant Scientist, Assistant Economist, Assistant Statistician; Programmer, Technician, Designer, Assistant Accountant; Senior Secretary, Senior Fieldman, Senior Draftsman, Senior Draftswoman	11.23 - 25.74
5	Engineer, Analyst, Scientist, Economist, Statistician; Senior Programmer, Senior Technician, Senior Designer, Accountant; Supervising Secretary, Supervising Fieldman, Supervising Draftsman, Supervising Draftswoman	13.21 - 30.27
6	Senior Engineer, Senior Analyst, Senior Scientist, Senior Economist, Senior Statistician; Supervising Programmer, Supervising Technician, Supervising Designer, Supervising Accountant; Senior Supervising Secretary	15.46 - 35.45
7	Supervising Engineer, Supervising Analyst, Supervising Scientist, Supervising Economist, Supervising Statistician	18.12 - 41.50
8	Principal Engineer, Principal Analyst, Principal Scientist, Principal Economist, Principal Statistician	21.51 - 49.35
9	Executive Engineer, Executive Analyst, Executive Scientist, Executive Economist	25.63 - 58.68
10	Partner, Executive Engineer, Executive Analyst, Executive Scientist, Executive Economist	36.55 - 49.50
11	Partner, Executive Engineer, Executive Analyst, Executive Scientist, Executive Economist	(Hourly Salary Costs of Partners and Retired Partners range from
12	Partner, Executive Partner, Manager of Consulting Services, Manager of Design Services	
13	Managing Partner	
		\$47.98 - \$67.02

(*) - Including allowance of 32% for personnel benefits.
Note: The above "Range of Hourly Salary Costs" is that currently in effect for the Firm and may be modified, taking into account the demand for the different grades of personnel and changes in the cost of living.